

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jenny Calixte	Team: Team # 5	CCRB Case #: 200305805	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/23/2003 4:37 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 1/23/2005	EO SOL 1/23/2005	
Date/Time CV Reported Wed, 07/23/2003 4:25 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/30/2003 11:05 AM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. SGT Roberto Melendez	05442	899587	075 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Christop Cooke	09683	921231	075 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.SGT Roberto Melendez	Abuse: Sgt. Roberto Melendez frisked § 87(2)(b)				
B.SGT Roberto Melendez	Abuse: Sgt. Roberto Melendez searched the car in which § 87(2)(b) was an occupant.				

Synopsis

§ 87(2)(b) filed this complaint when he called 911 during the incident and was subsequently transferred to the IAB. On July 23, 2003 at approximately 4:25p.m, in the vicinity of Pitkin and Euclid Avenues in Brooklyn, § 87(2)(b) driving his sister's vehicle, observed an unmarked police vehicle make a U-turn and follow him. The vehicle followed him for approximately twenty blocks and parked behind him when he parked in front of his aunt's house, located at § 87(2)(b) § 87(2)(b) got out of the car and walked toward the gate to the house. As he was opening the gate the officers approached and asked § 87(2)(b) for his license and registration. § 87(2)(b) s back was to the officers. An officer, identified as PO Christopher Cooke, grabbed his right hand. § 87(2)(b) turned around and an officer, identified as Sgt. Roberto Melendez, frisked him. (Allegation A) § 87(2)(b) and the officers returned to the vehicle in order to retrieve the required information. The officers watched § 87(2)(b) as he searched for the paperwork in the vehicle's glove compartment. As he was searching, the officers observed a police plaque belonging to his sister § 87(2)(b) § 87(2)(b) Sgt. Melendez grabbed the plaque and questioned § 87(2)(b) about it. § 87(2)(b) explained that it belonged to his sister. Sgt. Melendez then ask § 87(2)(b) to step out of the car and proceeded to search the vehicle. He searched every part of the vehicle including the trunk. (Allegation B) When officers left the scene they left items from the trunk on the sidewalk. § 87(2)(b) called 911 on his cell phone while the officers were searching the car to complain about the incident. § 87(2)(b) was issued a summons for failure to use his turn signal.

§ 87(2)(g)

Summary of Complaint

On July 23, 2003 at approximately 4:25p.m, § 87(2)(b) called 911 to report that officers were searching his vehicle. § 87(2)(b) was transferred to the IAB and he explained that the officers followed him and that they were searching his vehicle and leaving items on the ground. § 87(2)(b) also stated that he received a summons for failure to signal for a turn. (encl. 3a-b)

§ 87(2)(b) was interviewed at the CCRB on August 12, 2003. (encl. 5a-b) § 87(2)(g) § 87(2)(b) (encl. 5a1) § 87(2)(b) did not mention in his phone interview that he was frisked. § 87(2)(b) also expressed that he was confused as to why the officers did not stop him at the location of the alleged traffic infraction.

On July 23, 2003, at approximately 4:25p.m, on his way home § 87(2)(b) noticed an unmarked police vehicle positioned on Euclid Avenue in the vicinity of the "A" train stop, Euclid Avenue and Pitkin Avenue. He slowed down and they followed him to his destination. § 87(2)(b) was driving his sister's silver Honda. The officers followed him as he proceed westbound on Pitkin Avenue. The officers followed him for about twenty blocks. § 87(2)(b) was not alarmed because it was a normal thing for unmarked cars to follow vehicles in his neighborhood. § 87(2)(b) pulled over and parked in front of his aunt's house located at § 87(2)(b) The plainclothes officers parked right behind him. They got out of the car when he got out of his car. The officers approached § 87(2)(b) outside of his car as he opened the front gate of the house and asked for his license and registration. § 87(2)(b) s back was to the officers. The blond officer, identified as PO Christopher Cooke, grabbed his right hand. § 87(2)(b) then turned towards him. The black-haired officer, identified as Sgt. Roberto Melendez, frisked him. He went back to the car and sat down to find the paperwork in the glove department. The officers were right next to him when he was going through the glove compartment to get the registration. The police officers noticed a plaque in his car. Sgt. Melendez snatched the plaque out of the car and asked why he had the plaque. § 87(2)(b) § 87(2)(b) explained he was not displaying the plaque, that his sister worked as a § 87(2)(b) § 87(2)(b). He also explained that it was his sister's car. The plaque did not have a name on it. It only contained the car's license plate number. The officers did not take the time to match the numbers. PO Cooke began running the license. Sgt. Melendez asked § 87(2)(b) to step out of the car, went in the car on the passenger's side and began searching the vehicle. § 87(2)(b) asked, "What are

you looking for?” The officer responded, “We do what we want to do.” The front passenger side was searched first. He searched every part of the car, including the trunk. The stuff in the trunk was on the street: kites, bike stuff, kids stuff, clothes, and assorted junk. The officer left the stuff from the trunk on the street.

As Sgt. Melendez was searching the car, § 87(2)(b) was on his cell phone with 911. He told 911 that he was being harassed. PO Cooke told him he wasn’t supposed to be on the phone. PO Cooke gave him a summons and informed § 87(2)(b) that he was getting a ticket for neglecting to use his turn signal. § 87(2)(b) described PO Cooke as white with short blond hair. PO Cooke was the officer who wrote the summons. Sgt. Melendez was described as having black hair, glasses, and as being either Hispanic or white.

§ 87(2)(b) was upset during the incident but it did not escalate to any kind of verbal dispute. An individual who hangs around § 87(2)(b)’s neighborhood showed up at the scene near the end of the incident. § 87(2)(b) claims that this individual drinks and is high all the time. His name is § 87(2)(b) but § 87(2)(b) would not trust what he would remember because he is not credible. He first appeared when the officers were in their car ready to leave.

§ 87(2)(b) was interviewed over the phone on December 3, 2003 for follow-up questions. (encl. 5c) § 87(2)(b) explained that he went to court regarding the traffic summons. § 87(2)(b) stated in court that he did not make the illegal turn. He was nonetheless found guilty and as a result paid a fine.

§ 87(2)(b) clarified that the officers performed a U-turn and followed him when they first observed him the vicinity of Euclid and Pitkin Avenues. § 87(2)(b) expressed that the reason that he drove past his house was because there was construction being done in the vicinity of § 87(2)(b). He also admitted that he made a right turn from Glenmore Avenue to Ashford Street, from Ashford Street to Liberty Avenue, and finally from Liberty onto § 87(2)(b). § 87(2)(b) stated that the officers never put on their lights and sirens.

When § 87(2)(b) got back into the car he sat in the driver side. The officers were on each side of the car. PO Cooke was on the driver side with § 87(2)(b) and Sgt. Melendez was on the passenger side. While § 87(2)(b) was searching for his license and registration, Sgt. Melendez opened the door. § 87(2)(b) did not attempt to show the officers the plaque. He expressed that he did not have any reason to show them the plaque. Sgt. Melendez grabbed the plaque while § 87(2)(b) was searching for his license and registration. Sgt. Melendez asked him to step out of the vehicle while PO Cooke ran his license. Sgt. Melendez popped the trunk while inside the vehicle. Sgt. Melendez was the individual who did the physical search. PO Cooke was mainly searching with his eyes.

Results of Investigation

CIVILIAN WITNESSES

§ 87(2)(b) only saw one civilian around during the incident. He claimed that this individual is a homeless man named § 87(2)(b). § 87(2)(b) described § 87(2)(b) as homeless individual who is generally drunk and could not be trusted to recall the incident. Furthermore, he stated that he first saw § 87(2)(b) when the officers were in their car ready to leave. The undersigned performed a field trip to the location on November 12, 2003, at the approximate time of the incident and observed that the block was fairly desolate. There was no signs of § 87(2)(b). § 87(2)(b) informed the undersigned by phone on November 12th that he has not seen § 87(2)(b) since the incident.

PO Christopher Cooke (75th Precinct)

PO Cooke was interviewed at the CCRB on August 22, 2003. (encl. 6a-d) On July 23, 2003, at the time of the incident, PO Cooke was working Anti-Crime patrol in the confines of the 75th Precinct with Sgt. Roberto Melendez. Earlier in his tour PO Cooke was working with PO William Nass. At approximately 4:30p.m, PO Cooke observed § 87(2)(b)’s vehicle make two sharp right hand turns without signaling.

§ 87(2)(b) was traveling westbound on Glenmore Avenue when he made a sharp right onto Ashford Street. He then made a right from Ashford Street onto Liberty Avenue and finally he made a quick right onto § 87(2)(b). § 87(2)(b) was traveling at a substantial rate of speed. By the time PO Cooke put on the lights and caught up to § 87(2)(b) he had turned on § 87(2)(b). PO Cooke and Sgt. Melendez were on routine patrol when they first observed § 87(2)(b). It is possible that they could have been in the vicinity of the Euclid Avenue train station because it is in the confines of the 75th Precinct and a high crime area. PO Cooke does not recall seeing § 87(2)(b)'s vehicle prior to the time he noticed the traffic violation. The police vehicle was two or three car lengths behind § 87(2)(b)'s car but there were no other vehicles in front of the officers.

§ 87(2)(b) was seated in the vehicle when the officers approached him. The police vehicle was parked strategically behind § 87(2)(b) as per proper police strategy. PO Cooke approached § 87(2)(b) on the driver's side of the vehicle. When PO Cooke walked up to the car § 87(2)(b)'s window was down. When the officers approached the vehicle, § 87(2)(b) turned around and said, "What, what do you want, why are you following me?" PO Cooke replied that he was not following § 87(2)(b) and informed him that he made two turns without signaling. § 87(2)(b) reached into the glove box and pulled out a New York City Police Parking Permit and sucked his teeth. PO Cooke asked § 87(2)(b) if he was part of the police department and § 87(2)(b) responded, "No but my girl is." PO Cooke did not recall if § 87(2)(b) stated that the vehicle belonged to his sister. Sgt. Melendez was on the passenger side of the vehicle. PO Cooke informed § 87(2)(b) that they will still need to see his license and registration. § 87(2)(b) provided this information and the officers returned to their vehicle. While PO Cooke was running his license, § 87(2)(b) exited his car and made a cell phone call. § 87(2)(b) then made a second phone call and began speaking loud enough so that the officers could hear. § 87(2)(b) began describing an officer, the car, and also provided the license plate number. PO Cooke paid no attention to § 87(2)(b) and continued writing the summons. PO Cooke returned to § 87(2)(b) who was still out of the car, and issued him a summons. PO Cooke generally does not like when people step out their vehicles during a traffic stop. He did not instruct § 87(2)(b) to get back in the vehicle, however. PO Cooke issued § 87(2)(b) the summons, returned to his vehicle, and left the scene. § 87(2)(b) was very combative during the incident and PO Cooke felt that § 87(2)(b) was trying to provoke him to do something that was improper.

PO Cooke denied that § 87(2)(b) was on his way into § 87(2)(b) when the officers stopped him; the officers did not stop at the gate of that location. They also did not subsequently frisk § 87(2)(b) in the vicinity of that location. Since they did not frisk § 87(2)(b) they did not prepare a stop and frisk report. PO Cooke did not search § 87(2)(b)'s vehicle. PO Cooke was never in § 87(2)(b)'s vehicle. Sgt. Melendez did no search § 87(2)(b)'s vehicle. At no point in time did they go into § 87(2)(b)'s trunk. The officer did not leave items from § 87(2)(b)'s trunk on the ground.

§ 87(2)(b) received a summons for failing to signal a right turn. PO Cooke did not give him a summons for speeding because he did not have a speed gun and therefore it would not stand in court. PO Cooke felt that § 87(2)(b) was driving above the 30mph speed limit. § 87(2)(b) was also driving in an unsafe manner. PO Cooke has issued less than ten summonses for moving violations in the last month prior to his CCRB interview. While § 87(2)(b) was standing next to a gate another individual in his twenties approached § 87(2)(b). PO Cooke had no interaction with that individual. He did not recall seeing anyone else around during the incident.

Sgt. Roberto Melendez (75th Precinct)

PO Melendez was interviewed at the CCRB on September 11, 2003. (encl. 7a-e) On July 23, 2003, Sgt. Melendez was working as the Anti-Crime supervisor with PO Christopher Cooke. They were in an unmarked blue Chevy Impala and PO Cooke was the driver. At the time of the incident, PO Cooke observed § 87(2)(b) failing to signal a turn on Liberty Avenue. Sgt. Melendez did not recall the cross street because he did not make the observation. He did not recall if they were on Liberty Avenue or at the cross street when the infraction occurred. Sgt. Melendez only knew of one infraction. PO Cooke mentioned that the vehicle failed to signal but did not mention it again. Sgt. Melendez did not notice § 87(2)(b) make any more traffic violations. They were directly behind § 87(2)(b). PO Cooke turned the sirens on

immediately after he noticed the infraction. They followed § 87(2)(b) for approximately two blocks. § 87(2)(b) parked the vehicle. § 87(2)(b) got out of the car momentarily and was walking a few steps away. The officers had the lights and sirens so Sgt. Melendez believed that § 87(2)(b) knew that they were police officers. The lights and sirens went on a few blocks before they stopped § 87(2)(b). Sgt. Melendez denied that § 87(2)(b) was stopped at the gate of § 87(2)(b). § 87(2)(b) was outside of the vehicle when PO Cooke asked him for his license and registration. Sgt. Melendez was on the passenger side of the vehicle. Sgt. Melendez did not hear § 87(2)(b) say anything in response. § 87(2)(b) got back into the car to retrieve his items. § 87(2)(b) took a card out of the glove compartment that Sgt. Melendez later found was a police plaque. Sgt. Melendez did not hear any conversation about the plaque. § 87(2)(b) provided his information from the car and the officers returned to their vehicle. PO Cooke informed him that § 87(2)(b) had a police plaque, which belong to his girlfriend. Sgt. Melendez did not hear the interaction. He believed that the passenger side window was up. § 87(2)(b) was also speaking in low tones. § 87(2)(b) did not look upset. The officers did not snatch the plaque from § 87(2)(b). When the officers came back from the car § 87(2)(b) was out of his car speaking on his cell phone. The officers were in their vehicle for approximately five minutes. § 87(2)(b) was still on the phone when they returned. PO Cooke issued § 87(2)(b) the summons.

§ 87(2)(b) was not grabbed and subsequently frisked in front of § 87(2)(b). The officers did not have physical contact with § 87(2)(b) during the incident. At no time did the officers search § 87(2)(b)'s vehicle. The trunk of the vehicle was not searched. Sgt. Melendez claimed that they did not have reason to search the vehicle. § 87(2)(b) was not acting suspicious. It was normal car stop. Sgt. Melendez estimates that Anti-Crime officers issue five to ten summons for moving violations a month. Sgt. Melendez claims that it is possible that they were in the vicinity of Euclid Avenue train station (in vicinity of Pitkin Avenue and Euclid Avenue) before interacting with § 87(2)(b) but he does not specifically recall. That location is within the confines of the 75th Precinct. The first time Sgt. Melendez saw § 87(2)(b) was on Liberty Avenue before he was stopped. He did not recall following § 87(2)(b). Sgt. Melendez verified an arrest by PO William Nass at approximately 2:10p.m in the vicinity of Pitkin Avenue and Hendrix Street. Sgt. Melendez went to the precinct for arrest processing and resumed patrol at 3:45p.m. The officers were on routine patrol and Sgt. Melendez did not recall what they were doing until they interacted with § 87(2)(b) at 4:25p.m. The officers did not file a stop and frisk report.

OTHER OFFICERS

PO Cooke and Sgt. Melendez were the only officers on the scene.

MAP

The map shows the approximate route § 87(2)(b) took to get to § 87(2)(b) from Euclid and Pitkin Avenue, where he claims that he first observed the officers. (encl. 9) § 87(2)(b) recalled that he was traveling westbound on Pitkin Avenue and also westbound on Glenmore Avenue. However, he did not recall the route he took to get from Pitkin Avenue to Glenmore Avenue. § 87(2)(b) however confirms that he made right turns from Glenmore Avenue to Ashford Street, from Ashford Street to Liberty Avenue, and finally from Liberty Avenue to § 87(2)(b).

POLICE RECORDS

PO Cooke issued § 87(2)(b) summons # § 87(2)(b) for failure to signal a right hand turn. (encl. 8ac)

COMMUNICATIONS RECORDS

DAU could not locate the sprint report of § 87(2)(b)'s 911 phone call on the date and time of the incident. This phone call is noted in the IAB log synopsis.

COURT DOCUMENTS

§ 87(2)(b) stated, during a December 3, 2003 interview with the undersigned, that he pled not guilty in court to the traffic violation. However, he was found guilty. § 87(2)(b) paid a fine for the infraction. PO Cooke was present in court.

CIVILIAN/OFFICER HISTORY

§ 87(2)(b) has made one previous complaint with the CCRB. The case was closed complainant uncooperative. § 87(2)(b) alleged that an officer stopped his vehicle and threatened him with force and used offensive language.

Sgt. Melendez has no previous substantiated CCRB allegations.

Conclusions and Recommendations

UNDISPUTED FACTS

It is established that Sgt. Melendez and PO Cooke stopped § 87(2)(b) in the vicinity of § 87(2)(b) in Brooklyn and issued him a summons for failing to signal a right turn.

ISSUES IN DISPUTE

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

CREDIBILITY ANALYSIS

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(b) did not mention in his brief interview prior to his interview at the CCRB that the officers frisked him. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(b) PO Cooke portrayed § 87(2)(b) as an aggressive driver who was driving in an unsafe manner. PO Cooke claimed that § 87(2)(b) failed to signal twice and was driving at an excessive rate of speed. PO Cooke alleged that he did not give § 87(2)(b) a ticket for speeding because he did not have a speed gun. Sgt. Melendez did not observe § 87(2)(b)'s infraction and did not observe § 87(2)(b) make other infractions as they followed him. PO Cooke claimed that § 87(2)(b) was combative and antagonizing. He felt that § 87(2)(b) was trying to get him to do something improper. Sgt. Melendez claimed that § 87(2)(b) was calm and speaking in low tones. PO Cooke claimed that § 87(2)(b) was inside the car when he approached and questioned him. He maintained that § 87(2)(b) did not get out of the vehicle until they were back in the car. PO Cooke also stated that § 87(2)(b) was pulled over. Sgt. Melendez, however, stated that § 87(2)(b) parked his vehicle and got out and began to walk away from it when they stopped him. The officers both denied that § 87(2)(b) was frisked or that his vehicle was searched.

OFFICER IDENTIFICATION

PO Cooke is identified as the officer who wrote § 87(2)(b) the summons. PO Cooke admitted to as much in his interview at the CCRB. § 87(2)(b) provided an accurate description of PO Cooke. Sgt. Melendez admitted that he was on the location with PO Cooke. Sgt. Melendez and PO Cooke both explained that a change in tour occurred when PO William Nass made an arrest earlier in the tour. PO Cooke had originally been in a vehicle with PO Nass. § 87(2)(b) also provided an accurate description of Sgt. Melendez. § 87(2)(g)

Allegation A: Sgt. Roberto Melendez frisked § 87(2)(b)

§ 87(2)(b) claims that Sgt. Melendez frisked him in front of his aunt's house. Sgt. Melendez denied that he frisked § 87(2)(b). Both officers denied that they had any physical contact with the complainant. There are inconsistencies in the officers' testimony. § 87(2)(b) also did not mention that he was frisked on the 911 tape or during his initial phone conversation with the undersigned. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation B: Sgt. Roberto Melendez searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) claims that Sgt. Melendez and PO Cooke searched his vehicle. § 87(2)(b) made these claims during a brief phone conversation with IAB. He reiterated the allegation during his statements to the CCRB. § 87(2)(b) claimed that after the officers observed his sister's plaque Sgt. Melendez questioned him on its origin and asked him to step out of the car and proceeded to search the entire car and went into the trunk. Sgt. Melendez and PO Cooke denied that they searched any part of § 87(2)(b)'s car. They denied that they opened the trunk or that they left items on the floor. Sgt. Melendez expressed that they had no legitimate reason to search § 87(2)(b)'s vehicle.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: